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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

EDGAR SOLIS,

Plaintiff,

v.

STATE OF CALIFORNIA; and
MICHAEL BELL,

Defendants.

Case No.: 5:23-cv-00515-HDV-JPR

[Honorable Hernán D. Vera]

Magistrate Judge Jean P. Rosenbluth

**PLAINTIFF'S NOTICE OF
MOTION AND MOTION *IN*
LIMINE No. 1 TO EXCLUDE
INFORMATION UNKNOWN**

[(Proposed) Order; Declaration of
Marcel F. Sincich and attached exhibits
filed concurrently herewith]

Hearing on Motions *in Limine*:

October 1, 2024 at 09:00 a.m.

Final Pretrial Conference:

October 8, 2024 at 10:00 a.m.

Jury Trial

October 29, 2024 at 09:00 a.m.

Ctrm: 10D

1 **TO THIS HONORABLE COURT AND ALL PARTIES AND THEIR**
2 **ATTORNEYS OF RECORD:**

3 PLEASE TAKE NOTICE that Plaintiff EDGAR SOLIS hereby moves *in*
4 *limine* for an order excluding any evidence, testimony, argument, or reference at
5 trial to **any Information Unknown to Defendant Officer Michael Bell** at the time
6 of his use of excessive and unreasonable deadly force, including:

- 7 a) Substance Use History (drug, tobacco, or alcohol use or possession) by
8 Plaintiff at any time, including on the date of the shooting and prior to
9 the date of the shooting, assumptions or opinions of or based on past
10 drug use based on behavior; and the post-incident toxicology results.
- 11 b) Criminal History of Plaintiff, including prior arrests; prior convictions;
12 prior and post-incident charges filed not resulting in conviction; post-
13 incident charges filed resulting in conviction; any other contacts with
14 law enforcement; any times in custody or incarcerated; and any
15 criminal history including detail about unrelated incidents not listed in
16 the BOLO report.
- 17 c) Other Wrongs or “Bad Acts” character evidence of Plaintiff, including
18 any inference to gang affiliation; any unrelated wrongs from other
19 individuals such as other incidents in the area or neighborhood; and any
20 criminal history of Plaintiff’s brother.
- 21 d) After-Acquired Investigatory Reports and Information obtained by law
22 enforcement after the incident, that was not known to Officer Bell at
23 the time of his use of excessive and unreasonable force, including
24 hearsay CHP, RCSD and RCDA reports related to investigation of
25 incident; CHP, RCSD and RCDA findings regarding whether the force
26 was within policy or whether to press criminal charges; OIS briefing
27 audio and report; AGO 1-496; County 9-64 – unless for impeachment
28 or refresh; and whether the gun was loaded or had an expended round.

1 e) Speculative Statements of Plaintiff's Intent and Thoughts cannot be
2 known to any other person, it is inherently speculative. Plaintiff's
3 perceived conduct is relevant, not what Defendant thinks Plaintiff was
4 thinking. Further, Officer Bell admitted that he did not know what Solis
5 was thinking (Exh. A, Bell Depo 19:18-23) and Mr. Meyer admitted
6 that he does not know what was thinking and does not know Solis'
7 intent (Exh. K, Meyer Depo 38:15-23; 45:2-4).

8 Plaintiff will suffer specific and unfair prejudice if this Motion *in Limine* is
9 not granted because the above information was undisputedly unknown to Defendant
10 Bell at the time of the incident. Despite it admittedly being information unknown,
11 Defendants intend to admit this information as "corroborating evidence" – in other
12 words, to unfairly bolster testimony with inadmissible evidence. The above
13 categories of information are irrelevant to liability and damages; and even if
14 remotely relevant have such minimal probative value that there is a substantial risk
15 of confusing the jury, presenting cumulative evidence, unnecessarily consuming
16 time and misleading the jury in their task of determining whether Defendant Bell is
17 liable, presenting unfair prejudice to Plaintiff; and importantly, including
18 impermissible character evidence and hearsay without exception. Plaintiff makes
19 this Motion under Federal Rules of Evidence, Rules 401, 402, 403, 404, 602, 801,
20 802, 805 and the longstanding and binding Ninth Circuit prohibition of hindsight
21 evidence in an excessive force case pursuant to *Glenn v. Washington Cnty.*, 673
22 F.3d 864, 873 (9th Cir. 2011).

23 Plaintiff bases this motion on this Notice of Motion and Motion, the attached
24 Memorandum of Points and Authorities, the Declaration of Marcel F. Sincich in
25 Support of Plaintiff's Motions *in Limine* Nos. 1-5 and Exhibits attached thereto,
26 Plaintiff's [Proposed] Order, any argument raised at the hearing on this motion, and
27 all other pleadings and papers on file with this Honorable Court.

1 **Statement of Local Rule 7-3 Compliance:** This motion is made following a
2 conference of counsel pursuant to L.R. 7-3 which took place on August 29, 2024
3 and September 5, 2024, during which Plaintiff understood a partial resolution was
4 reached. Present at the conference were Dale K. Galipo (in the earlier) and Marcel
5 F. Sincich for the Plaintiff and David Klehm for the Defendants. The conference
6 took place over Zoom and telephonically. Defendants plan on presenting the
7 information identified herein; Defendants do not agree to exclude the information
8 identified; and Defendants will be opposing Plaintiff's motion. (Declaration of
9 Marcel F. Sincich ("Sincich Decl.") at ¶¶2, 3.)

10
11 Respectfully submitted,

12 Dated: September 10, 2024,

LAW OFFICE OF DALE K. GALIPO
LAW OFFICES OF GRECH & PACKER

13
14
15 By /s/ Marcel F. Sincich
16 Dale K. Galipo
17 Trenton C. Packer
18 Marcel F. Sincich
19 *Attorneys for Plaintiff* EDGAR SOLIS
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This is a §1983 civil rights and state tort case arising from the use of excessive and unreasonable force against Plaintiff Edgar Solis by State of California Highway Patrol (“CHP”) Officer Michael Bell. By this Motion *in Limine*, Plaintiff moves to exclude from testimony, exhibits, and argument at trial any information unknown to Bell at the time of his use of excessive force against Solis, including: **(A) Substance Use History** (drug, tobacco, alcohol use or possession at any time, including prior to and on the date of the shooting, any assumptions or opinions of or based on drug use, and the post-incident toxicology results; **(B) Criminal History**, including prior law enforcement contacts, arrests and convictions, prior and post-incident charges filed, incarceration history, and any criminal history including detail about unrelated incidents not listed in the BOLO report; **(C) Other Wrongs or “Bad Acts”** character evidence of Plaintiff, including any inference to gang affiliation, any unrelated wrongs from other individuals such as other incidents in the area or neighborhood, and any criminal history of Plaintiff’s brother; **(D) After-Acquired Investigatory Reports and Information** that was not known to Bell at the time of his excessive use of deadly force, including hearsay CHP, Sheriff’s and District Attorney reports related to investigation of incident; CHP, Sheriff’s and District Attorney findings regarding whether the force was within policy or whether to press criminal charges; OIS briefing audio and report; AGO 1-496; County 9-64 – unless for impeachment or refresh; and whether the subject gun was loaded or had an expended round; and **(E) Testimony of Solis’ subjective state of mind, thoughts, and intentions.**

The central issue in this case is whether the deadly force used against Solis by Bell was excessive. The analysis is limited to information known to Bell at the time the force was used. Defendants’ attempt to use unknown information is a distraction to the jury intended to inflame the passions of the jury and should be excluded. Plaintiff anticipates Defendants will make every effort to insert criminal history, PCP,

1 and methamphetamine into every witness's testimony as "corroborating evidence" to
2 support their speculative theories and opinions that people on drugs act violently and
3 do not feel pain in their attempt to argue that Solis acted violently and did not feel
4 pain – in other words, Defendants will attempt to introduce impermissible propensity
5 evidence. Defendants will also attempt to argue, inconsistent with the law, that Solis'
6 criminal history, both *convictions unknown* and mere allegations known make him a
7 deadly threat. Defendants' theories require leaps in logic and serve as nothing more
8 than a smear campaign to prejudice Solis to make this a trial of his character instead
9 of Bell's unconstitutional conduct. The law is clear -- Defendants are not permitted to
10 use after-acquired information to bolster their case.

11 It is undisputed: Bell knew nothing about Plaintiff's substance use history and
12 certainly did not know the post-incident toxicology results; Bell knew nothing about
13 Plaintiff's arrest or conviction history (besides it including a felony), including prior
14 arrests, convictions, charges, contacts, or incarcerations; Bell had the BOLO report
15 only, and knew no details about the then alleged crimes under investigation; Bell
16 knew nothing of Plaintiff's prior wrongs or bad acts; and Bell clearly did not have the
17 post-incident investigation reports, including post-incident discovery that the subject
18 gun was loaded or that it had an expended round therein. It is well-settled and binding
19 law that information unknown is not relevant to the analysis and should be excluded.

20 Defendants' evidence is hearsay, speculative, irrelevant, unduly prejudicial, and
21 impermissible character evidence designed to taint the jury's perspective of Plaintiff,
22 distract them from their true task, and deprive Plaintiff of a fair trial. Thus, Plaintiff
23 respectfully request the Court issue an order excluding information unknown to Bell
24 at the time of his use of excessive and unreasonable deadly force from this trial.

25 **II. INFORMATION UNKNOWN IS EXPRESSLY PROHIBITED**

26 Under the Federal Rule of Evidence, evidence that does not tend to make the
27 existence of any fact that is of consequence to the determination of the action more
28 probable or less probable is not admissible. Rules 401, 402. Since the Supreme Court

1 first elucidated the Fourth Amendment reasonableness standard in police shooting
2 cases, lower courts and juries have been required to confine their inquiry to the
3 information known to the officer at the time of the use of force. *Graham v. Connor*,
4 490 U.S. 386, 396 (1989). “The clarity of hindsight cannot provide the standard for
5 judging the reasonableness of police decisions.” *Tennessee v. Garner*, 471 U.S. 1, 26
6 (1985). Adhering to the parameters of what the officer knew at the time of the seizure
7 in a Fourth Amendment reasonableness analysis is of the utmost importance because
8 it maintains an essential balance and protects both law enforcement officers and the
9 public. *See Id.* at 25-26; *United States v. Place*, 462 U.S. 696, 703 (1983).

10 After acquired information by investigators or during discovery cannot be
11 considered. *Glenn v. Washington Cnty.*, 673 F.3d 864, 873 (9th Cir. 2011). In *Glenn*,
12 unknown to the shooting officer at the time of the incident, a witness told a 911
13 operator that the suspect “was threatening to kill everybody” and might “run at the
14 cops with a knife.” *Id.* Rejecting the “suggestion that...these statements provide
15 uncontroverted evidence demonstrat[ing] that the officers’ safety concerns were not at
16 odds with information provided to law enforcement,” the Ninth Circuit reiterated,
17 “[w]e cannot consider evidence of which the officers were unaware...” *Id.* at 873,
18 n.8, citing *Graham*, 490 U.S. at 396 (emphasis added). Accordingly, juries are
19 instructed that they “must judge the reasonableness of a particular use of force from
20 the perspective of a reasonable officer on the scene” at the time of the use of force
21 “and not with the 20/20 vision of hindsight.” *Id.*; Ninth Circuit Model Jury Inst. 9.25.

22 Considering how the jury will be instructed and given the great weight of
23 authority on this issue, permitting the jury to learn about facts and circumstances *that*
24 *Bell was not confronted with* or that were otherwise unknown to him at the time he
25 used deadly force against Solis would be highly improper. Evidence unknown to Bell
26 at the time of his excessive use of deadly force—including any evidence of (A)
27 Substance Use History including on the date of and prior to the shooting, and the
28 post-incident toxicology results; (B) Criminal History including prior police contacts,

1 arrests and convictions, prior and post-incident charges filed, incarceration history,
2 and any criminal history including detail about unrelated incidents not listed in the
3 BOLO report; (C) Other Wrongs or “Bad Acts” character evidence of Plaintiff,
4 including bad acts of other individuals unrelated to this incident; (D) After-Acquired
5 Investigatory Reports and Information that were not known to Bell at the time of his
6 use of excessive and unreasonable force, including hearsay reports and information
7 that the subject gun was loaded or had an expended round; and (E) Testimony of
8 Solis’ subjective state of mind, thoughts, and intentions, are irrelevant and
9 inadmissible because it was not part of the “totality of the circumstances” facing Bell
10 at the time of his use of deadly force. *See Witt v. West Virginia State Police, Troop 2*,
11 633 F.3d 272, 275 n.* (4th Cir. 2011) (noting that the plaintiff’s “criminal history and
12 possession of illegal narcotics...are irrelevant to the excessive force analysis because,
13 as the troopers themselves acknowledge, they ‘did not know’ these facts ‘at the
14 time’”—even though the facts of the incident were profoundly disputed); *Wisler v.*
15 *City of Fresno*, No. CVF 06-1694 LJO SMS, 2008 WL 2954179, at *5 (E.D. Cal. July
16 30, 2008) (excluding drug evidence because it was unknown to defendants).

17 Here, the only information Bell knew was from a brief review of the BOLO
18 report and his own observations during the incident. Pre-incident conduct and post-
19 incident hindsight evidence that was unknown to Bell are obviously irrelevant to
20 liability in this matter.

21 Q. And around that time frame, is that when you received the BOLO
22 related to Mr. Solis?

23 A. No. I had seen the BOLO prior to leaving the office.

24 Q. Okay. Did you do any kind of research on Mr. Solis prior to
25 leaving the office?

26 A. I learned that he had several felony warrants for, one for a car
27 jacking crime and then one for a robbery. I can’t remember what the
28 other incidents were for. I believe that he’s considered dangerous,
possibly armed, and that he was driving like a lime green colored
Mustang. And then I was able to see his picture on the BOLO.

1 Q. Did you know anything else about Mr. Solis at that time?

2 A. Not that I recall. (Sincich Decl ¶4, Exh. A, Bell Depo 44:9-24.)

3 Q. What I mean is at the time you used deadly force, that you didn't
4 recall meeting Mr. Solis before?

5 A. That's what I'm saying. Yes, I don't recall ever meeting him
6 before. (Exh. A, Bell Depo 46:25-47:3.)

7 Q. Did you have any specific information about whether or not Mr.
8 Solis had ever used drugs or alcohol prior to the incident?

9 A. I recall some information possibly associated with that BOLO
10 that he had a drug charge or something or some charge associated with
11 drugs, but nothing beyond that.

12 Q. Did you have any specific information as to whether or not Mr.
13 Solis was under the influence of drugs or alcohol at the time?

14 A. No. (Exh. A, Bell Depo 47:13-23.)

15 THE WITNESS: I don't have any details regarding his other cases.
16 (Exh. A, Bell Depo 48:11-12.)

17 Further, Officer Bell admitted that he did not know what Solis was thinking
18 (Exh. A, Bell Depo 19:18-23) and Mr. Meyer admitted that he does not know what
19 was thinking and does not know Solis' intent (Exh. K, Meyer Depo 38:15-23; 45:2-4).
20 Bell had no information about Solis' history, no information about whether Solis had
21 ever been violent with any person in the past and did not know everything about
22 Solis's criminal history or prior police contacts, and no information about drugs. That
23 is because Bell only knew what he saw on the BOLO. Bell obviously did not have any
24 information from post-incident investigative findings and reports including the
25 toxicology report and forensics related to the subject gun. Despite being clearly
26 irrelevant, by opposing this Motion, it is clear that Bell intends to admit information
27 he did know to implicate Solis as a bad character and attempt to justify his
28 unreasonable use of deadly force. Information unknown did not play in the totality of
circumstances confronting Bell when he used deadly force. Therefore, the information
unknown to Bell at the time of his use of excessive deadly force should be excluded
as impermissible hindsight evidence.

1 **III. THIS EVIDENCE IS IMPERMISSIBLE CHARACTER EVIDENCE**

2 Under Rule 404, the foregoing items of evidence Plaintiff seeks to exclude
3 cannot be used to prove that Solis acted in some general “bad character” during the
4 incident. Rule 404(a)(1) specifically prohibits character evidence, stating that
5 “[e]vidence of a person’s character or character trait is not admissible to prove that on
6 a particular occasion the person acted in accordance with the character or trait.”
7 Further, Ninth Circuit case law is clear that character evidence is normally not
8 admissible in a civil rights case. *Gates v. Rivera*, 993 F.2d 697, 700 (9th Cir. 1993).
9 Character must be “in issue,” i.e., an essential element of a charge, claim, or defense,
10 for character evidence to be admitted. *See* Adv. Comm. Notes, Fed. R. Evid. 405(b);
11 *United States v. Mendoza–Prado*, 314 F.3d 1099, 1103 (9th Cir. 2002). Character is
12 not an essential element to this matter. For example, testimony regarding information
13 gathered after the incident relating to any unknown history, or investigative findings
14 poses a danger that the jury will (1) improperly infer that Bell knew this information,
15 (2) improperly infer that Solis had the propensity to act violently towards Bell, and (3)
16 will reach a verdict that does not reflect the circumstances facing Bell at the time.

17 Defendants intend to use information unknown as evidence of a propensity for
18 violence. “Corroborating” evidence is “Propensity” evidence. The above referenced
19 material cannot be used to show Solis’ character or that he acted in conformity
20 therewith. *Palmerin v. Riverside*, 794 F.2d 1409, 1414 (9th Cir. 1985) (excluding
21 “any circumstantial evidence that requires an inference of a person’s character to
22 make it relevant”). Admission of the information unknown, including as listed herein,
23 is an impermissible backdoor attempt to tarnish Solis’ character and pollute the jury
24 against him. The argument that this evidence is admissible under Rule 404(b)(2) or
25 406 is inconceivable. The listed specific instances of conduct are not a permitted
26 method of proving character. Rule 405 (Adv. Comm. Notes, specific instances of
27 conduct possess the greatest capacity to arouse prejudice, confusion, surprise, and
28 consume time). Thus, this impermissible character evidence should be excluded.

1 **IV. THIS INFORMATION UNKNOWN IS UNDULY PREJUDICIAL**

2 Information unknown should be excluded under Rule 403 since any probative
3 value it may have, is substantially outweighed by a danger of unfair prejudice,
4 confusing the issues, misleading the jury, waste of time, and needlessly presenting
5 cumulative evidence. “Unfair prejudice” means “undue tendency to suggest decision
6 on an improper basis, commonly, though not necessarily, an emotional one.” *United*
7 *States v. Hankey*, 203 F.3d 1160, 1172 (9th Cir. 2000); *Larez v. City of Los Angeles*,
8 946 F.2d 630, 642 n.5 (9th Cir. 1991) (noting that evidence is likely to inflame the
9 jury if it tends to evoke a juror’s anger or punitive impulses); *Jackson v. City of*
10 *Gahanna*, 2011 WL 587283, at *5 (S.D. Ohio Feb. 9, 2011) (“Allowing evidence of
11 the illegal items seized from the [decedent]...would undermine the protections of the
12 Fourth Amendment by permitting the jury to infer that the [decedent’s] culpability or
13 status as a presumed drug dealer justify the Defendant’s use of force against him.”);
14 *Wisler*, 2008 WL 2954179, at *5; *Kunz v. DeFelice*, 538 F.3d 667, 676-77 (7th Cir.
15 2008). The information Defendants intend to introduce as indicated herein has
16 minimal if any probative value at all. Yet Defendants seek to repeatedly introduce
17 prejudicial information unknown to Bell. Defendants must not be permitted to
18 needlessly present witnesses and documents all to repeat the same or similar
19 information that Bell cannot even testify to from personal knowledge at the time. The
20 jury should not be misled to believe that Solis’ past conduct is at issue—the jury
21 should properly remain focused on Bell’s conduct. *See C.B. v. City of Sonora*, 769
22 F.3d 1005, 1021 (9th Cir. 2014), cert. denied, 135 S. Ct. 1482 (2015) (the issue is the
23 conduct of the police).

24 Furthermore, “evidence of other crimes or wrong acts is not looked upon with
25 favor and must be carefully scrutinized to determine probative value.” *United States*
26 *v. Aims Back*, 588 F.2d 1283, 1287 (9th Cir. 1986). Any testimony offered by the
27 defense regarding unrelated crimes, drug use, bad acts, or statements about Solis’
28 state of mind, will lack foundation and call for speculation. Fed. R. Evid. 602.

1 Plaintiff's concern is that Defendants will attempt to take every opportunity to insert
2 the dangerous propensity of the methamphetamine and PCP user, or the dangerous
3 propensities of the person with a criminal history, having nothing to do with this
4 incident and unknown to Bell, into as many witnesses testimony as possible to
5 inflame the passions of the jury against Plaintiff, depriving him of a fair trial. "[E]ven
6 a murderer has a right to be free from [civil rights violations] and the correlative right
7 to present his claim[s] of [violations] to a jury that has not been whipped into a frenzy
8 of hatred." *Wilson v. City of Chicago*, 6 F.3d 1233, 1236 (7th Cir. 1993). Evidence of
9 drugs and bad acts can only serve to unjustly inflame a jury's passions and prejudices
10 against Plaintiff. *See Estate of Diaz v. City of Anaheim*, 840 F.3d 592 (9th Cir. 2016);
11 *Gregory v. Oliver*, 2003 WL 1860270, at *2 (N.D. Ill. Apr. 9, 2003) (granting motion
12 *in limine* in an excessive force case to exclude drug paraphernalia officers discovered
13 after the alleged excessive force occurred, because it was irrelevant and unduly
14 prejudicial under Rule 403); *cf. Rascon v. Hardiman*, 803 F.2d 269, 278 (7th Cir.
15 1986) (affirming exclusion of excessive force decedent's mental health history, even
16 though officers knew about his past suicide attempt and mental illness history and
17 argued it justified their actions in subduing him, because of danger jury would
18 conclude subduing was reasonable based on status rather than conduct at the time);
19 *Mason v. City of Chicago*, 631 F. Supp. 2d 1052, 1060-61 (N.D. Ill. 2009) ("whether
20 Plaintiff smoked [] marijuana [] three hours before the incident is no more probative
21 than whether the officers drank coffee before the incident. The introduction of expert
22 testimony or testimony concerning facts unrelated to the physical encounter would
23 merely divert the jury from the relevant inquiry.... [Drugs] play[] no part in this
24 inquiry and the introduction of such evidence serves no purpose other than to make a
25 general character attack on Plaintiff."). This inflammatory evidence will mislead or
26 confuse the jury into reaching a verdict that reflects its consideration of unrelated
27 conduct and post-incident hindsight evidence, as a reason justifying the unreasonable
28 use of deadly force or improperly limiting Plaintiff's damages.

1 The following inflammatory evidence was not known by Bell; thus, its
2 probative value is minimal if there is any at all, and substantially outweighed by the
3 danger of unfair prejudice, confusing the issues, misleading the jury, undue delay,
4 wasting time, or needlessly presenting cumulative evidence (Fed. R. Evid. 403): **(A)**
5 Substance Use History (including prior to and on the date of the shooting, any
6 assumptions or opinions of or based on drug use, and the post-incident toxicology
7 results; **(B)** Criminal History, including prior contacts, arrests and convictions, prior
8 and post-incident charges filed, incarceration history, and any criminal history
9 including detail about unrelated incidents not listed in the BOLO report; **(C)** Other
10 Wrongs or “Bad Acts” character evidence, including inference to gang affiliation,
11 unrelated wrongs from others such as other incidents in the area or neighborhood; **(D)**
12 After-Acquired Investigatory Reports and Information that was not known to Bell at
13 the time of his excessive use of deadly force, including hearsay reports related to
14 investigation of incident; findings regarding whether the force was within policy or
15 whether to press criminal charges; OIS briefing audio and report; AGO 1-496; County
16 9-64; and whether the subject gun was loaded or had an expended round; and **(E)**
17 Testimony of Solis’ subjective state of mind, thoughts, and intentions.

18 Admission of such evidence also poses a substantial risk of leading to
19 “litigation of collateral issues, thereby creating a side issue which might distract the
20 jury from the main issues.” *Blancha v. Raymark Industries*, 972 F.2d 507, 516 (3d
21 Cir. 1992); *Rockwell v. Yukins*, 341 F.3d 507, 513 (6th Cir. 2003) (*en banc*), *Arlio v.*
22 *Lively*, 474 F.3d 46, 53 (2d Cir. 2007). The central factual dispute in this case is
23 whether Bell used excessive deadly force against Solis by shooting him to the back.
24 Refuting the inferences of violence, drugs, and bad character, that Defendants intend
25 to raise despite being unknown, will necessitate several mini trials on collateral issues
26 that have nothing to do with the central factual dispute, depriving Plaintiff of a fair
27 trial. *Blancha*, 972 F.2d at 516. Trying several mini trials to rebut Defendants’
28 character evidence, Plaintiff will be forced to call several witnesses to show his true

1 character and rehabilitate the jurors view of him taking potentially days to conduct.
2 As a result, it will unduly consume this Court's and the jury's time and resources.
3 Accordingly, Plaintiff respectfully request that the Court also exclude evidence,
4 reference, and argument regarding information unknown under Rule 403.

5 **V. THIS EVIDENCE IS INADMISSIBLE HEARSAY**

6 Finally, the Court should exclude the identified testimony, recordings and
7 reports as having multiple layers of hearsay without any exception under Federal Rule
8 of Evidence 801, 802, and 805. Given that this present Motion pertains to information
9 unknown, Bell cannot testify to this information based on personal knowledge. Fed.
10 R. Evid. 602. Thus, to the extent that the information Defendants intend to introduce
11 would be through admission of hearsay statements and documents, it should also be
12 excluded. Investigative documents from CHP, Sheriff and District Attorney, the
13 toxicology report, criminal history, and unrelated bad acts records were all made from
14 out of this court, and Defendants impermissibly intend to offer them for the truth of
15 the matter asserted, and the to speculatively infer something nefarious.

16 **VI. CONCLUSION**

17 For the foregoing reasons, Plaintiff respectfully requests an order excluding any
18 evidence, witness, or argument at trial to the above categories of information that was
19 unknown to Defendant Bell at the time of his use of deadly force.

20
21 Respectfully submitted,

22 Dated: September 10, 2024,

LAW OFFICE OF DALE K. GALIPO
LAW OFFICES OF GRECH & PACKER

23
24 By /s/ Marcel F. Sincich

Dale K. Galipo

Trenton C. Packer

25
26 Marcel F. Sincich

27 *Attorneys for Plaintiff* EDGAR SOLIS
28

CERTIFICATE OF COMPLIANCE

The undersigned counsel of record for Plaintiff certify that this brief contains 3,460 words, which complies with the word limit of L.R. 11-6.1.

Respectfully submitted,

Dated: September 10, 2024,

**LAW OFFICE OF DALE K. GALIPO
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By /s/ Marcel F. Sincich

Dale K. Galipo

Trenton C. Packer

Marcel F. Sincich

Attorneys for Plaintiff EDGAR SOLIS